

Introduced by Senator Ducheny

February 22, 2006

An act to add Section 21099 to the Public Resources Code, relating to environmental quality.

LEGISLATIVE COUNSEL'S DIGEST

SB 1395, as introduced, Ducheny. Environmental quality: Native American sites.

(1) The California Environmental Quality Act (CEQA) requires a lead agency to evaluate whether an activity is a project subject to CEQA or comes within an exemption, and if the activity is determined to be a project to prepare, or cause to be prepared, and certify the completion of, an environmental impact report or to adopt a negative declaration, as required.

This bill would require that a lead agency not certify or adopt an environmental impact report, negative declaration, or exemption for a project that alters or otherwise impacts a California Native American prehistoric, archeological, cultural, spiritual, or ceremonial place, as identified by the California Native American Heritage Commission, except as specified.

(2) Because this bill would impose new duties on local governments with respect to certification or adoptions of environmental impact reports, negative declarations or exemptions for specified projects, the bill would create a state-mandated local program.

(3) The California Constitution requires the state to reimburse local agencies and school districts for certain costs mandated by the state. Statutory provisions establish procedures for making that reimbursement.

This bill would provide that no reimbursement is required by this act for a specified reason.

Vote: majority. Appropriation: no. Fiscal committee: yes.
State-mandated local program: yes.

The people of the State of California do enact as follows:

1 SECTION 1. Section 21099 is added to the Public Resources
2 Code, to read:

3 21099. The lead agency shall not certify or adopt an
4 environmental impact report, negative declaration, or exemption
5 for a project that directly or indirectly alters or otherwise impacts
6 a Native American prehistoric, archeological, cultural, spiritual,
7 or ceremonial place, as identified by the California Native
8 American Heritage Commission, pursuant to subdivision (a) of
9 Section 5097.94, unless both of the following occur:

10 (a) The lead agency preparing the environmental
11 determination or exemption has engaged in government to
12 government consultation with the Native American tribe or tribes
13 identified by the California Native American Heritage
14 Commission, for whom the identified sacred site holds cultural
15 significance, regarding the potential direct and indirect impact on
16 cultural property.

17 (b) The Native American tribe or tribes identified by the
18 California Native American Heritage Commission, for whom the
19 identified sacred site holds cultural significance, have been given
20 written notification of the determination or exemption not less
21 than 60 days prior to the proposed certification or adoption of the
22 environmental determination or exemption by the lead agency.

23 SEC. 2. No reimbursement is required by this act pursuant to
24 Section 6 of Article XIII B of the California Constitution because
25 a local agency or school district has the authority to levy service
26 charges, fees, or assessments sufficient to pay for the program or
27 level of service mandated by this act, within the meaning of
28 Section 17556 of the Government Code.